IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 97 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

MADHUSUDAN VEGETABLE PRODUCTS LTD.

Appearance:
MR AKIL KURESHI with MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 23/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in

respect of assessment year 1985-86 :-

"Whether the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to exclude the amount of medical reimbursement while computing disallowables under Section 40A(5) ?"

2. Though served, none appears for the respondent-assessee.

3. We have heard Mr Akil Kureshi, learned counsel for the revenue. Mr Kureshi points out that the controversy raised herein is concluded by the decisions of this Court in Gujarat Steel Tubes Ltd. vs. CIT, (1994) 210 ITR 358, Ambica Mills Ltd. vs. CIT, (1999) 235 ITR 264 and CIT vs. Ambica Mills Ltd., (1999) 236 ITR 921 wherein this Court has taken a view that reimbursement of medical expenses to the Managing Directors of the assessee would be a benefit to a director within the meaning of section 40(c)(i) of the Income-tax Act, 1961 and, therefore, the expenditure incurred by the assessee Company ought to be disallowed under Section 40(c) read with Section 40A(5) of the Act.

4. In view of the aforesaid decisions, we hold that the Appellate Tribunal was not right in directing the Assessing Officer to exclude the amount of medical reimbursement while computing disallowables under Section 40A(5) of the Act. Accordingly, we answer the question in the negative i.e. in favour of the revenue and against the assessee.

The reference accordingly stands disposed with no order as to costs.

(J.M. Panchal, J.)

(M.S. Shah, J.)

sundar/-